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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,266	09/17/2003	Isao Hanai	HIR-140	3416

7590 10/29/2004
LORUSSO LOUD & KELLY LLP
15 RYE STREET
Suite 312
Portsmouth, NH 03801

EXAMINER


PAPE, JOSEPH

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/664,266	Applicant(s) HANAI ET AL.	
	Examiner Joseph D. Pape	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 7-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 28-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/9/04.

Also, claims 7-27 are also withdrawn from further consideration by the Examiner as being drawn to a nonelected species. Even though these claims have been amended to depend from generic claim 1, these claims recite elements of the non-elected species and are hereby withdrawn. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in independent form of otherwise include all of the limitations of an allowed generic claim.

2. Applicant's election without traverse of Figures 1-2 in the reply filed on 9/9/04 is acknowledged.

After further consideration, it appears that Figure 3 is merely a differently shaped mid-filler attachment and should be included with Figures 1 and 2 for examination purposes.

Specification

3. The disclosure is objected to because of the following informalities: On page 9, line 9 is awkwardly phrased.

Appropriate correction is required.

Claim Objections

4. Claims 2-6 are objected to because of the following informalities:

In claims 2-6, line 1, --absorbing device—should be added after “shock” for consistency with the parent claim 1 and for greater clarity.

In claim 3, line 3, “or” should be changed to –and--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 3, lines 2-3, it is unclear how the shock absorbing material is formed into a shape of a lotus root or a loofah. These items do not have definite "shapes" but they do have distinctive cross sections.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Kelman.

Kelman discloses the claimed "shock absorbing device" including first arm 22d, second arm 26d, and mid-filler attachment 10a with shock absorbing material 12 therein. The shock absorbing material 12 has an open celled cross sectional configuration similar to that of a "loofah". Also, the first arm 22d includes apertures for removal or attachment of the first arm to vehicle frame member 28. Reference Figures 1, 2 and 3.

9. Claims 1, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kariatsumari et al.

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Kariatsumari et al. disclose the claimed "shock absorbing device" including first arm 44e, second arm 45i and mid-filler attachment 71a. The first arm 44e includes attachment means in the form of apertures for removal from and attachment to a vehicle frame and the second arm 45i includes attachment means in the form of apertures for removal from and attachment to a bumper. Reference Figure 13.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show other shock absorbing devices that are similar to that of the current invention.

Note specifically:

Miller discloses first arm 2, second arm 4 and mid-filler attachment 32.

Kroning et al. and Kajiwara et al. disclose shock absorbing structures with integral arms associated therewith.

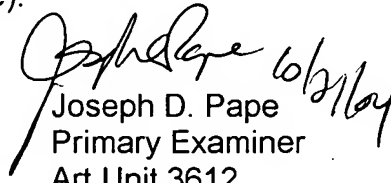
Cherry, Beekman, and Evans disclose shock absorbing materials within hollow structures that are similar to that of the current invention.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Pape whose telephone number is (703) 308-3426. The examiner can normally be reached on Tues.-Fri. (6:00-4:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joseph D. Pape
Primary Examiner
Art Unit 3612

Jdp

October 21, 2004